

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

SB 795 - HB 1259

February 24, 2023

SUMMARY OF BILL AS AMENDED (003741): Provides that a tenancy by the entirety in real property shall not be assigned or severed, or a spouse's interest in such real property conveyed, to a third party without the written consent of both spouses or a court order.

FISCAL IMPACT OF BILL AS AMENDED:

NOT SIGNIFICANT

Assumptions for the bill as amended:

- The proposed legislation concerns transactions between private parties; therefore, any fiscal impact to state or local government is estimated to be not significant.
- In the case *In re Estate of Fletcher* 538 S.W.3d 444, dated December 6, 2017, the Tennessee Supreme Court opined that when the property is real estate held as a tenancy by the entirety, one spouse cannot unilaterally sever the tenancy by transferring a portion of the property to a third party without the consent of the other spouse because doing so would destroy the other spouse's ownership interest in the whole.
- The proposed legislation, therefore, makes state law consistent with judicial interpretation.
- It is not expected that the proposed legislation would have a significant impact on the number of court orders; any fiscal impact to the courts is estimated to be not significant.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

Krista Lee Carsner, Executive Director

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